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|| ATTORNEY: APPT & CLAIMS
|| COUNTY ATTY/ Lori Zucco, Deputy County Attorney
|| DEFENSE ATTY/ Xochitl Orozco, Deputy Public Defender
|| ARIZONA DEPART OF CORRECTIONS
|| C.C.S.O. JAIL (Certified)
|| ADULT PROBATION DEPARTMENT
|| DONNA HARRIS, DEPUTY CLERK
|| MAILED

SUPERIOR COURT OF ARIZONA

COUNTY OF COCHISE

Date November 7, 2016

FILED

2016 NOV -9 PM 4:45

MARY ELLEN DUNLAP
CLERK OF SUPERIOR COURT

BY DEPUTY

CASE: STATE OF ARIZONA, Plaintiff

vs. LUKE ^{ESPLEN} ^{DSV} BENSON, Defendant

Date of Birth: 6/23/1974

SENTENCE OF PROBATION

CASE NO: CR201600511

JUDGE: HONORABLE JOHN F. KELLIHER, JR.

DIVISION: TWO

COURT REPORTER: Cynthia Reed

MARY ELLEN DUNLAP, CLERK

By: Daniel Vertrees (11/9/16), Deputy Clerk

Docketed by

10:03 a.m. State represented by Sara Ransom on behalf of Lori Zucco, Deputy County Attorney
Defendant present in person and by Xochitl Orozco, Deputy Public Defender

This matter came before the Court for a sentencing hearing.

The Court verified the Defendant's true name and date of birth

The Court has received and read the Presentence Report and supporting documentation.

The Court addressed the Defendant directly.

Ms. Orozco presented the position of the Defendant.

The Defendant was given the opportunity to speak and was heard.

Ms. Ransom presented the position of the State.

The Court addressed the Defendant directly.

See amendment dated
December 27, 2016

Two	November 7, 2016	HONORABLE JOHN F. KELLIHER, JR.	Daniel Vertrees
Div	Date	Superior Court Judge	Deputy Clerk

No. CR201600511 STATE vs LUKE EPSLEN BENSON
Esplen Dsr

Pursuant to A.R.S. Section 13-607, the Court finds as follows:

[XX] **WAIVER OF TRIAL** The Defendant knowingly, intelligently and voluntarily waived his right to a trial with a jury, his right to confront and cross-examine witnesses, his right to testify or remain silent and his right to present evidence and call his own witnesses after having been advised of these rights. The determination of guilt was based upon a plea of **GUILTY**.

Having found no legal cause to delay rendition of judgment and pronouncement of sentence, the Court enters the following judgment and sentence.

IT IS THE JUDGMENT OF THE COURT that the Defendant is guilty of the offense of **on or about the 19th of December, 2012, committed driving under the extreme influence of intoxicating liquor by driving a vehicle while that person had an alcohol concentration of 0.15 or more, but less than 0.20 or more, within two hours of driving the vehicle and the alcohol concentration resulted from alcohol consumed either before or while driving the vehicle, in violation of A.R.S. §§ 28-1382(A)(1), 28-1381, 28-1382, 28-1385, 13-701, 13-707, and 13-802, and 13-804.01 (a Class 1 misdemeanor), and amended count 2 of the Direct Information.**

Upon consideration of the offense, and the facts, law and circumstances involved in this case, the Court finds that the Defendant is eligible for probation. The specific reasons for the granting of probation are stated by the Court on the record.

[XX] **IT IS ORDERED** placing the Defendant on **unsupervised probation for the period of THREE (3) YEARS commencing this date**, in accordance with the formal UNIFORM CONDITIONS OF UNSUPERVISED PROBATION and FINANCIAL JUDGMENT AND ORDER which were executed in open court this date.

The Court advised the Defendant of his rights of review and written notice of those rights were provided to the Defendant. The written terms and conditions of probation were provided to the Defendant for explanation, acceptance, and signature. The defendant is advised concerning the consequences of failure to abide by the conditions of probation.

The Defendant shall receive credit for TWO (2) days of time served.

[XX] **IT IS ORDERED** the Defendant shall serve his remaining SEVEN (7) days in the Cochise County Jail on **November 11, 12, 13, 19, 20, 26, and 27 of 2016**. The Defendant shall report to the jail by 6:00 a.m., on the 11, 19, and 26 November and be released at 6:00 p.m., on the 13, 20, and 27 of November.

Two	November 7, 2016	HONORABLE JOHN F. KELLIHER, JR.	Daniel Vertrees
Div	Date	Superior Court Judge	Deputy Clerk

No. **CR201600511** STATE vs **LUKE EPSLEN-BENSON**
ESPLEN DS✓

ORDERED the Defendant shall not consume or possess any substances containing alcohol and shall live in an alcohol-free residence.

ORDERED Defendant shall pay fines and fees in accordance with the Financial Judgment and Order.

ORDERED the Defendant shall pay a fine in the amount of \$250.00 plus the 83% surcharge for a total fine and surcharge amount of \$457.50.

ORDERED the Defendant shall pay a one time time payment fee of \$20.00

ORDERED the Defendant shall pay a one time probation surcharge of \$20.00

ORDERED the Defendant shall pay a Law Enforcement Assessment of \$13.00 (Sierra Vista Police Department DR#12-52346)

ORDERED the Defendant shall pay a DUI Assessment of \$250.00

ORDERED the Defendant shall pay a Prison Construction Assessment of \$1,000.00

ORDERED the Defendant shall pay a Public Safety Equipment Fund of \$1,000.00

ORDERED the Defendant shall pay attorney's fees of \$125.00

ORDERED CONFIRMING the previously imposed IDC assessment of \$25.00

ORDERED dismissing Count 1 of the Direct Information.

ORDERED exonerating any bond in this matter and vacating any pretrial orders.

ORDERED any Conditions of Release are VACATED.

ORDERED the Defendant shall report to the Adult Probation Department immediately following the conclusion of this hearing.

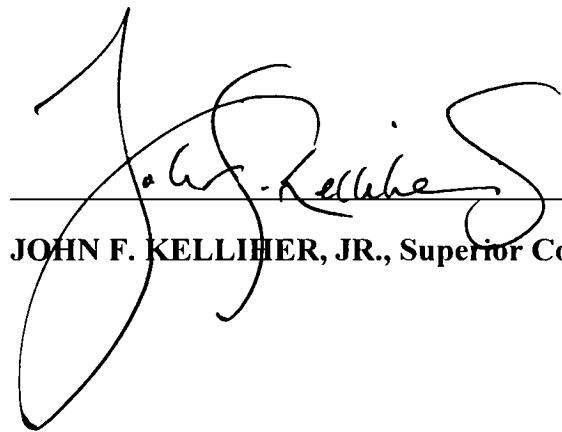
FILED: Conditions of probation and Notice of Rights of Review After Conviction signed by the Defendant and copy provided to the Defendant.

LET THE RECORD REFLECT that the Defendant's right index fingerprint is permanently affixed to this sentencing order.

10:22 A.M. Hearing concludes.

DATED this 9th day of **NOVEMBER, 2016.**





JOHN F. KELLIHER, JR., Superior Court Judge

FILED
In Open Court
by DO/TAKE

NOV - 7 2016

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
COUNTY OF COCHISE
CONDITIONS OF UNSUPERVISED PROBATION

MARY ELLEN DUNLAP
CLERK OF SUPERIOR COURT
By Deputy

STATE OF ARIZONA

VS.

Benson, Luke Esplen

CR 201600511

Other CR

A.R.S. §13-901.01 ☐ 1st ☐ 2nd ☐ Ineligible

OFFENSES: Count 1 28-1382A EXTREME DUI-BAC .15 OR MORE N 1 M

It is ordered suspending imposition of sentence and placing the defendant on Unsupervised Probation for a period of 3

☒ year(s) ☐ month(s) ☐ days from this date 00/00/0000 under the following conditions:
11/14/2016

1. Obey all laws.
2. Notify the Clerk of the Court within 10 days of any address change.
3. Not possess or control any firearms, ammunition, explosives, deadly or prohibited weapons as defined by A.R.S. §13-3101.
- ☐ 4. Complete a minimum of 0 hours of drug education and provide verification to the court within 0 days of sentencing.
5. Abide by the Judgement and Orders for Restitution, Fines, and Fees in this cause.
6. Provide a sample for DNA testing if required by law.
7. Not remain in or return to the United States illegally, if deported or processed through voluntary departure.
- ☒ 8. Other: Not possess or consume any substance containing alcohol, Serve 9 days in the Cochise County Jail with credit for 2 days time served

Immediately after Court, report to the following location:

Adult Probation Department
100 Clawson Ave
Bisbee, AZ 85603

RECEIPT AND ACKNOWLEDGEMENT: I hereby acknowledge receipt of the conditions of probation and, if applicable, the attached addenda to these conditions. I understand that a violation of any of the conditions could result in the revocation of my probation the court may impose sentence upon me in accordance with the law. I waive extradition for any probation revocation proceedings in this matter.

Luke Benson 11-7-16
Defendant Date

5540 S San Paolo Ave
Address

Serra Vista AZ 85600
City/State Zip

 11-07-16
Judge of the Superior Court Date
520-732-9545
Phone

DISTRIBUTION: White - Court File Green - Defense Attorney Canary - Adult Probation Pink - Defendant Golden Rod - County Attorney
Court File

18:42:27 11/30/2016

NOV - 7 2016

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
FINANCIAL JUDGMENT AND ORDER

STATE OF ARIZONA

COUNTY / DIVISION :

MARY ELLEN DUNLAP
CLERK OF SUPERIOR COURT
Cognise Deputy

vs.

CASE/CR : 201600511

Benson, Luke Esplen

☐ Reinstatement Commencing: ☐ Today's date ☐ This Date _____

PURSUANT TO CONDITION 5 OF THE UNSUPERVISED CONDITIONS OF PROBATION THE DEFENDANT SHALL ABIDE BY THE FOLLOWING JUDGMENT AND ORDERS OF RESTITUTION, FINES AND FEES:

FINANCIAL SANCTIONS	TOTAL	MONTHLY PAYMENT	BEGIN DATE
<input type="checkbox"/> Restitution A.R.S. 13-804			
<input checked="" type="checkbox"/> Time Payment Fee A.R.S. 12-116	\$20.00		Day of sent.
<input type="checkbox"/> Probation Fees A.R.S. 13-901			
<input checked="" type="checkbox"/> Probation Surcharge A.R.S. 12-114.01	\$20.00		" "
<input checked="" type="checkbox"/> Assessment A.R.S. 12-116.04 (A) DR# 12-52346	\$13.00		" "
<input type="checkbox"/> Fine A.R.S. 13-801/802/821			
<input type="checkbox"/> Surcharge			
<input checked="" type="checkbox"/> Fine A.R.S. §28-1382(D)(2)	\$250.00		5th of mo. foll. sent.
<input checked="" type="checkbox"/> Surcharge 83%	\$207.50		" "
<input checked="" type="checkbox"/> Additional Fee 28-1383 (J)(2)	\$250.00		" "
<input type="checkbox"/> DUI Abatement			
<input checked="" type="checkbox"/> Prison Construction Assessment	\$1,000.00		" "
<input checked="" type="checkbox"/> Public Safety Equipment Fund	\$1,000.00		" "
<input checked="" type="checkbox"/> Attorney's Fees	\$125.00 TBD		" "
<input checked="" type="checkbox"/> IDC Assessment	\$25.00		Day of sent.
<input type="checkbox"/> Jail Reimbursement Fee			
<input type="checkbox"/> Sex Offender Registration Fee A.R.S. 13-119			
<input type="checkbox"/> Other:			
<input type="checkbox"/> Other:			
<input type="checkbox"/> Other:			
<input type="checkbox"/> Other:			
Total Monthly Payment		\$80.00	5th of mo. foll. sent.

It is ordered credit be given for any monies paid to date and, if necessary, balances be adjusted accordingly. All modified orders are to be considered new orders for billing purposes.

» If restitution is not paid in full, the court may extend the period of probation pursuant to A.R.S. §13-902(C).

Should you become more than two months behind in your monthly payments, the adult probation department is authorized to order you to surrender your wages. Court ordered financial obligations will be deducted and the remainder of your wages will be returned to you.

Defendant

Date

Judge of the Superior Court

Date

5240 S San Juan Ave

Sierra Vista

AZ

85650-9338

Defendant's Address

Apt.

City

State

Zip

Phone

DISTRIBUTION: Original - Court, Copies - APD, Defendant

R6/24/14

Court File

11/07/2016 11:28:28



Motor Vehicle Division

26-0117 R09/09 www.azdot.gov

Mail Drop 537M
Motor Vehicle Division
1801 W Jefferson St
PO Box 2100
Phoenix AZ 85001-82100

TIME **FILED** M

NOV 07 2016

MARY ELLEN DUNLAP
CLERK OF SUPERIOR COURT
Deputy

COURT ABSTRACT

☐ Amended

Originating Date (MVD Use)

Customer Name (first, middle, last, suffix) LUKE ESPLEN BENSON					Date of Birth 05-20-1980	
Street Address 5240 S SAN JUAN AVE				City SIERRA VISTA	State AZ	Zip 85650-9338
Driver License/ID Number	Class	State	Complaint Number UNAVAILABLE	Court ID Number 0200	Citing Agency	Violation Date 12-19-2012
Accident <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Violation Code 28-1382A1		Approx. Speed	Lawful Speed	Vehicle Plate Number	State Make
Court Docket Number CR201600511		Disposition Code 21	Disposition Date 11-07-2016		Fine/Sanction \$250.00	
Serious Physical Injury <input type="checkbox"/> Yes <input type="checkbox"/> No	Fatality <input type="checkbox"/> Yes <input type="checkbox"/> No	Drugs (13-3401) <input type="checkbox"/> Yes <input type="checkbox"/> No	Alcohol Class/Treatment <input type="checkbox"/> Yes <input type="checkbox"/> No		Commercial Vehicle <input type="checkbox"/> Yes <input type="checkbox"/> No	Hazardous Material <input type="checkbox"/> Yes <input type="checkbox"/> No

• IGNITION INTERLOCK ORDERED (No box need be checked in this section.)

☐ The Court has ordered an additional _____ months.

Notice to Defendant: The number of months, if indicated above, is in addition to your required ignition interlock time period.

Extreme DUI Sentencing Authority Sep 19, 2007 and After

☐ 28-1382D with BAC of 0.20 or higher

☐ 28-1382F with BAC of 0.20 or higher

• MANDATORY INSURANCE SUSPENSION pursuant to:

Jan 1, 1998 and After

☐ 28-4135A

☐ 28-4135B

☐ 28-4135C

Number of Months Suspended

☐ Court directs MVD to suspend the:

- ☐ Driving Privileges
- ☐ Vehicle Registration
- ☐ Driving Privileges and Vehicle Registration

• JUVENILE/UNDER AGE SUSPENSION pursuant to:

☐ 8-323 Court has **suspended** the driving privileges

☐ 8-323 Court has **restricted** the driving privileges

☐ 28-3320A7 Court has **suspended** the driving privileges

☐ 28-3320D Court has **suspended** the driving privileges

☐ 28-3320B Court has **restricted** the driving privileges

☐ 28-3322B Court has **restricted** the driving privileges (4-244.34 for 18-20 yrs.)

Beginning Suspension Date	Ending Suspension Date	Beginning Restriction Date	Ending Restriction Date
<input type="checkbox"/> Terms of Probation		Restricted To	

• OTHER ACTIONS

Pursuant To ☐ Court has revoked the driving privileges
☐ Court has suspended the driving privileges

Beginning Date Ending Date

• DUI / MANDATORY INSURANCE PRIORS (if available)

Complaint Number	Violation Code	Violation Date	Court ID Number
Complaint Number	Violation Code	Violation Date	Court ID Number

I certify that the information above is true and correct.

Customer Signature

Unavailable

Presiding Judge/Court Clerk Signature

Donna Harris

Date

Date

11-29-16

• MVD USE

MVD Agent Initials Driver License Number Date Issued

FILED
In Open Court
by _____ TIME _____
NOV - 7 2016

MARY ELLEN DUNLAP
CLERK OF SUPERIOR COURT
By _____ Deputy

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF COCHISE

STATE OF ARIZONA,

Plaintiff,

vs.

Luke Espien Benson

Defendant.

Case No. CR201600511

NOTICE OF RIGHTS OF REVIEW AFTER CONVICTION

RIGHT TO APPEAL (CAPITAL)

If you are a capital defendant and sentenced to death the clerk shall file a notice of appeal at the time of entry of judgment and sentence. This notice shall be sufficient as notice of appeal with respect to all judgments entered and sentences imposed in this case (Rule 31.2b, Rule of Criminal Procedure).

RIGHT TO APPEAL (NON-CAPITAL)

You have a right to appeal from a final judgment of conviction, from an order denying a post-trial motion, or from a sentence which is illegal or excessive. Arizona Constitution art. 2, sec. 24; A.R.S. § 13-4031. **YOU DO NOT HAVE A RIGHT TO APPEAL IF YOU HAVE PLED GUILTY OR NO CONTEST OR HAVE ADMITTED TO A VIOLATION OF CONDITIONS OF PROBATION. IN THAT CASE, RELIEF MAY BE SOUGHT ONLY BY PETITION OR POST-CONVICTION RELIEF.** Rules 17.1, 17.2 and 27.8, Rules of Criminal Procedure, A.R.S. § 13-4033(B).

IN ORDER TO EXERCISE YOUR RIGHT TO APPEAL;

1. You must file a NOTICE OF APPEAL (Form 24(a)) within 20 days of the entry of judgment and sentence. If you do not file a notice of appeal within 20 days you will lost your right to appeal. The entry of judgment and sentence occurs at the time of sentencing.
2. To file a Notice of Appeal you should contact your lawyer, by letter, telephone or in person, telling him or her that you want to appeal. You can file the notice of appeal before you leave the courtroom on the day you are sentenced if you wish.
3. If you do not have a lawyer, get copies of Form 5, Defendants Financial Statement and Request for Appointment of Counsel and Form 24 (a), Notice of Appeal, either from the clerk of court, jail, or the prison, fill them both out and file or send them to the clerk of the superior court in the county you were tried and sentenced. They must arrive at the clerk's office within 20 days after you were sentenced.
4. You should have a lawyer handle your appeal.

RIGHT TO POST-CONVICTION RELIEF (CAPITAL)

If you are a capital defendant and sentenced to death, the clerk of the Supreme Court shall file a notice of Post Conviction Relief with the Trial Court upon the issuance of a mandate affirming your conviction and sentence on direct appeal. If your death sentence is reduced to life on direct appeal, it is your responsibility to file your own Notice of Post Conviction Relief. (Please see Right to Post-Conviction Relief (Non-Capital) section below).

RIGHT TO POST-CONVICTION RELIEF (NON-CAPITAL)

You also have a right to petition the Superior Court for Post-Conviction Relief. Rule 32, Rules of Criminal Procedure.

In order to exercise your Post-Conviction Relief Right;

1. You must file a NOTICE OF POST-CONVICTION RELIEF (Form 24(c)) within 90 days of entry of judgment and sentence if you do not file, or you do not have the right to file, a Notice of Appeal. If you do appeal, the time you have to file a Notice of Post-Conviction Relief extends from the entry of judgment and sentence to 30 days after the issuance of the order and mandate affirming the judgment and sentence on direct appeal.

NOTE: If you do not timely file a Notice of Post-Conviction Relief, you may never have another opportunity to have any errors made in your case corrected.

2. To seek post-conviction relief, you must obtain a copy of Form 24(c) (Notice of Post-Conviction Relief), either from your attorney, the clerk of the court, or the jail or prison, fill it out and file or send it to the clerk of the Superior Court of the county you were sentenced or within 30 days after the issuance of the order and mandate affirming the judgment and sentence on direct appeal.
3. If you cannot afford to hire an attorney, you should execute the Affidavit of Indigency contained in the Notice of Post-Conviction Relief and request that an attorney be appointed to represent you.

If you want a full copy of the rules governing appeals and post-conviction relief, the clerk in the court in the county where you were convicted will send you one upon request.

RECEIPT BY DEFENDANT

I have received a copy of this notice explaining my right to appeal, my right to seek post-conviction relief and the procedures I must follow to exercise these rights.

Date

11-7-16

Defendant